

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

PHILLIP SAEGER,

Petitioner,

v.

Case No. 12-C-188

WARDEN CHAMPAGNE,

Respondent.

ORDER

The petitioner, Phillip Saeger, has filed a motion to withdraw his petition for a writ of habeas corpus, alleging that because of his pending litigation he has been denied admission to a treatment program in the facility in which he is presently housed. Saeger alleges that he will not be allowed to participate in the program until his petition is resolved. He alleges that refusal of entry into the program would greatly reduce his chances of successful reintegration into society. Based upon these reasons, he requests permission to withdraw his petition for a writ of habeas corpus.

Saeger is certainly free to withdraw his petition for a writ of habeas corpus for any reason he chooses. His allegation that he is moving to withdraw his petition because he has been denied treatment until and unless the petition is resolved raises concerns, however.

It seems doubtful that the state could condition treatment upon a prisoner's willingness to forego assertion of his constitutional right to seek habeas relief. Denial of treatment on such grounds may itself be unlawful. The Court does not want to take any action that would only

complicate the case further. In other words, the Court does not wish to grant the motion to withdraw if petitioner intends to come forward later and argue that he was coerced into withdrawing his petition. Accordingly, rather than immediately granting Petitioner's request, the Court will await 10 days in which to allow Plaintiff to reconsider whether he truly wishes to withdraw his petition, as opposed to challenge the denial of treatment if he believes it is being denied solely because of the continuation of this action. If petitioner does not notify the Court that he has changed his mind in the matter by August 10, 2012, the Court will grant the motion.

SO ORDERED this 30th day of July, 2012.

s/ William C. Griesbach
William C. Griesbach
United States District Judge